

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

STEVE PRATT

PETITIONER

VERSUS

CIVIL ACTION NO. 2:07cv76-KS-MTP

RON KING

RESPONDENT

MEMORANDUM OPINION AND ORDER

This matter is before the Court, *sua sponte*, for dismissal. The petitioner has filed this petition for habeas relief pursuant to 28 U.S.C. § 2241 concerning the execution of his federal sentence. He is presently incarcerated at the South Mississippi Correctional Facility, Leakesville, Mississippi. The proper respondent is his custodian, Ron King.

Background

The petitioner pled guilty to violating 21 U.S.C. § 846 for conspiracy in this district court in United States v. Pratt, 4:02cr27BS-007 (S.D. Miss. Jun. 19, 2003). As a result of this guilty plea, he states that he was sentenced to serve a term of six years and four months. This federal sentence was imposed on June 12, 2003, and the judgment directed that his federal sentence run concurrently with his Mississippi state sentence.

Prior to his federal conviction, petitioner was detained in the Madison County Jail on a writ of habeas corpus ad prosequendum issued in United States v. Pratt, 4:02cr27BS-007 (S.D. Miss. Jun. 19, 2003), beginning on January 29, 2003, and continuing through June 26, 2003, for a period of 194 days. As relief in this instant habeas action, petitioner is requesting that his federal

sentence be credited with the 194 days he served in the Madison County Jail awaiting the outcome of his federal criminal charges.

Analysis

A federal sentence commences when the petitioner is “received at the facility designated for service of his federal sentence.” Blackshear v. U.S., 434 F.2d 58, 59 (5th Cir. 1970). There are no allegations in the instant petition to establish that the petitioner had been committed to the Madison County Jail to begin serving his federal sentence. This court finds that based on the order for writ of habeas corpus ad prosequendum to federal authorities issued in United States v. Pratt, 4:02cr27BS-007 (S.D. Miss. Jun. 19, 2003), and filed January 14, 2003, the petitioner was “on loan” to the federal authorities pending his federal criminal charge and the state’s custody over him was not interrupted. Therefore, the petitioner is not entitled to receive credit toward his federal sentence for the time he was detained in the Madison County Jail pursuant to the district court's writ of habeas corpus ad prosequendum. See United States v. Brown, 753 F.2d 455, 456 (5th Cir. 1985)(citations omitted).

Based on the foregoing, this court has determined that petitioner has failed to present claims upon which his requested habeas relief can be granted. Consequently, this civil action will be dismissed with prejudice.

This the 13th day of November, 2007.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE